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W. Scott Schirmer
1300 N. McClintock Drive
Chandler, AZ 85226-1303

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**AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM OF
McCLINTOCK PROFESSIONAL PLAZA**

THIS AMENDED AND RESTATED DECLARATION of Condominium is made this 24th day of January, 2000, by W. Scott Schirmer and Amnet Investment Company, an Arizona corporation, referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the Owner of the following described real property ("Property"), situated entirely within the County of Maricopa, State of Arizona, to wit:

The part of the Northeast quarter of the Southeast quarter of Section 23, Township 1 South, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at a point on the East line of the Southeast quarter of said Section 23, from which the East quarter corner of said Section 23 bears North 00° 02' 10" West a distance of 557.59 feet;
THENCE North 89° 57' 50" West, a distance of 358.00 feet;
THENCE South 00° 02' 10" East a distance of 351.16 feet;
THENCE North 89° 46' 40" East a distance of 172.03 feet;
THENCE along the arc of a curve to the right, said curve having a central angle of 53° 07' 50" and a radius of 25.00 feet, a distance of 23.18 feet;
THENCE North 89° 46' 40" East a distance of 165.94 feet to a point on the East line of the Southeast quarter of said Section 23;
THENCE North 00° 02' 10" West, along the East line of the Southeast quarter of said Section 23, a distance of 360.00 feet to the POINT OF BEGINNING;

EXCEPT the East 65 feet thereof.

WHEREAS, Declarant desires to submit and subject Declarant's fee estate in the Property together with Declarant's fee estate in all buildings, improvements and other permanent fixtures of whatever kind located thereon and to be located thereon (the "Improvements"), and all easements, rights, appurtenances and privileges belonging or in anyway pertaining thereto (all of which are

included within the term "Property" as defined in the above legal description), to a horizontal property regime pursuant to Sections 33-1201 through 33-1260, Arizona Revised Statutes; and

WHEREAS, Declarant is further desirous of establishing for its own benefit and for the mutual benefit of all future owners or occupants of the Property, or any part thereof, certain easements and rights in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the prior use, conduct and maintenance thereof; and

WHEREAS, Declarant desires and intends that the owners, mortgagees, beneficiaries and trustees under trust deed, occupants and all other persons hereinafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interests subject to, the rights, easements, privileges and restrictions hereinafter set forth all of which shall run with the land and be binding upon the Property and all parties having or acquiring any right, title or interest in or to the Property, or any part thereof, and shall inure to the benefit of each owner thereof, and all of which are declared to be in furtherance of a plan to promote and protect the Property and are established for the purpose of enhancing the value, desirability and attractiveness of the Property.

NOW, THEREFORE, it is the express intention of Declarant to amend and restate in its entirety the Declaration of Condominium of McClintock Professional Plaza recorded in Document No. 99-1137941, records of Maricopa County, Arizona, to read as herein amended and restated and for this Amended and Restated Declaration of Condominium to supersede and replace the prior declaration described above.

ARTICLE I

Definitions

- 1.1 "Act" means the Uniform Condominium Act at A.R.S. § 33-1201 through 1260.
- 1.2 "Affiliate of a Declarant" means any person who controls, is controlled by or is under common control with a Declarant.
- 1.3 "Allocated Interests" means the undivided interests in the Common Elements, the Common Expense Liability and votes in the Association allocated to each unit.
- 1.4 "Articles of Incorporation" means the instrument by which an incorporated Association or Unit Owners' Association is formed and organized under the state's corporate statutes.
- 1.5 "Association" or "Unit Owners' Association" means the Unit Owners' Association referred to as McClintock Professional Plaza Condominium Association, Inc., an Arizona corporation to be incorporated by Declarant to administer and enforce the covenants and to exercise the rights, powers and duties set forth in this Declaration, as well as its successors and assigns.
- 1.6 "Board of Directors" or "Board" means the body, regardless of its name, designated in the declaration and given general management powers to act on behalf of the association.

1.7 "Building" means any of the buildings located on the Property and constituting part of the Property as shown on the Plat.

1.8 "Bylaws" means the bylaws required by § 33-1246.

1.9 "Common Elements" means all portions of a Property other than the Units.

1.10 "Common Expense Liability" means the liability for Common Expenses allocated to each Unit by the Board pursuant to this Declaration.

1.11 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.12 "Condominium" means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate portions. Real estate is not a Condominium unless the undivided interests in the Common Elements are vested in the Unit Owners,

1.13 "Condominium Documents" means the declaration, bylaws, articles of incorporation, if any, and rules, if any.

1.14 "Declarant" shall initially mean W. Scott Schirmer, but upon transfer of the Property to Amnet Investment Co., Inc., shall mean Amnet Investment Co., Inc., together with its successors, heirs and assigns.

1.15 "Declaration" means this document for the creation of this condominium and covenants, conditions and restrictions herein set forth in this entire document, as it may from time to time be amended or supplemented.

1.16 "Development Plan" shall mean the plan submitted to and approved by the City of Chandler regarding development of the Property.

1.17 "Development Rights" means the following combination of rights reserved by and granted to a Declarant:

- (a) Add real estate to a Condominium.
- (b) Create easements, Units, convert Units into Common Elements or Limited Common Elements within a Condominium.
- (c) Subdivide Units, convert Units into Common Elements or convert Common Elements into Units.
- (d) Withdraw real estate from a Condominium.

(e) Make the Condominium part of a larger Condominium or planned community.

(f) Amend this Declaration during any period of Declarant Control to comply with applicable law or to correct any error or inconsistency in this Declaration, if the amendment does not adversely affect the rights of any Unit Owner.

(g) Amend this Declaration during any period of Declarant Control to comply with the rules of guidelines, in effect from time to time, of any governmental or quasi governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage investments.

1.18 "Identifying Number" means a symbol or address that identifies one unit in a Condominium.

1.19 "Limited Common Element" means a portion of the Common Elements specifically designated as a Limited Common Element in this Declaration and allocated by this Declaration or by operation of A.R.S. § 33-1212, paragraph 2 or 4 for the exclusive use of one or more but fewer than all of the Units.

1.20 "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity. In the case of a subdivision trust, as defined in A.R.S. § 6-801, person means the beneficiary of the trust who holds the right to subdivide, develop or sell the real estate rather than the trust or trustee.

1.21 "Plat" means the plat of the Property and of all Units submitted to the horizontal property regime, as first recorded in Book 519 of Maps at Page 36 thereof, as Document No. 99-1128913, official records of Maricopa County, Arizona and as thereafter from time to time.

1.22 "Real Estate" means any legal, equitable, leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests which by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. Real estate includes parts of the Property with or without upper or lower boundaries and spaces that may be filled with air or water.

1.23 "Rules" means the provisions, if any, adopted pursuant to the Declaration or Bylaws governing maintenance and use of the Units and Common Elements.

1.24 "Special Declarant Rights" means the following combination of rights reserved by and granted to a Declarant.

(a) Construct improvements provided for in the Declaration and the Plat.

(b) Exercise any Development Right.

(c) Maintain sales offices, management offices, signs advertising the condominium, and models.

(d) Use easements through the Common Elements for the purpose of making improvements within the Condominium or within real estate which may be added to the Condominium.

(e) Appoint or remove any officer of the association or any board member during any period of Declarant Control.

1.25 "Unit" means a part of the Property, including one or more rooms situated in a Building comprising a part of the Property designated or intended for independent use as permitted hereunder and as set forth on the Plat.

1.26 "Unit Owner" means the Declarant or other person who owns a Unit but does not include a person having an interest in a Unit solely as security for an obligation. In the case of a contract for conveyance, as defined in A.R.S. § 33-741, of real property, Unit Owner means the purchaser of a Unit.

ARTICLE II

2.1 Name. The name by which the Condominium is to be identified is McClintock Professional Plaza Condominiums ("Condominiums").

2.2 Location, Property Description, Plats and Plans. The Condominium is located at 1300 North McClintock, Chandler, Arizona. A copy of the Plat is attached hereto as Exhibit A.

2.3 Submission of Property. Declarant hereby submits and subjects its fee estate in the Property and in the Improvements to a horizontal property regime pursuant to the Act, to be hereafter known as McClintock Professional Plaza Condominiums and does hereby declare that all of the Units shall be owned, leased, sold, conveyed and encumbered or otherwise held or disposed of subject to the terms, conditions and provisions of this Declaration.

2.4 Description of the Building, the Units and the Common Elements. The entire horizontal property regime shall be constituted of the Units as described on the Plat, together with the Common Elements.

2.5 Building Description. A description of the cubic content space of each Building is as follows: The upper boundary shall be the plane of the top elevation of the Building and the lower boundary shall be the lower Unit boundaries of the Units in the Building as shown on the Plat. The lateral boundaries shall be the exterior of the outside walls and the extension of the plane thereof to the upper and lower Building boundaries. Reference is hereby made to the Plat for further description of the cubic content space of each of the Buildings which are in the horizontal property regime, and its location on the Property.

2.6 Unit Description. The cubic content space of each Unit shall consist of, and be measured by, the entire space within the Unit's upper, lower and lateral boundaries shown or described on the Plat. Each Unit's upper boundary is a plane (extending to the lateral boundaries) which corresponds with the Interior unfinished surface of the ceiling. Each Unit's lower boundary is a plane (extending to the lateral boundaries) which corresponds with the interior unfinished surface of the floor. Each Unit's lateral boundaries at perimeter Unit walls are the planes (extended to the upper and lower boundaries) of the interior unfinished surface of the walls and perimeter windows. Reference is hereby made to the Plat for further description of the cubic content space of each Unit and its location or planned location within the Buildings.

2.7 Units and Boundaries. The Property herein described and submitted to the Arizona Condominium Act is divided into fourteen (14) separate Units, the limited Common Elements and the Common Elements. Each Unit consists of an office and its appurtenant percentage of undivided interest in the Common Elements herein provided. Each Unit shall be conveyed as a separately designated and legally described free hold subject to the Act and the Condominium survey. Each includes that part of the structure which lies within the following boundaries:

- (a) Horizontal, (upper and lower):
 - (i) The upper horizontal of each Unit located on the Property is the plane formed by the uppermost, unexposed surface of the wallboard or other material composing a part of the ceiling enclosing the uppermost story of the Unit.
 - (ii) The lower horizontal boundary of each Unit located on the Property is the plane formed by the finished surface of the concrete slab.
- (b) Vertical (Perimetric or Lateral): The vertical boundaries of each Unit located on the Property are the planes formed by the unexposed surface of the wall board or other surface compromising the interior walls enclosing a Unit.
- (c) Notwithstanding the description of the boundaries set forth above, the boundaries shall be deemed to be extended to include the following: all portions of the plumbing, heating, electrical and air conditions systems (including furnaces, compressor, components pipes, wires, conduits, ducts and the like) serving only that individual Unit; all windows, glass surfaces, and doors, (including frames) serving the Unit; and all portions of any covered veranda, patio or balcony serving the Unit, whether or not such veranda, patio or balcony is enclosed.

2.8 Limited Common Elements. Assignment and Reassignment

- (a) The limited Common Elements located on the Property and the Units to which they are assigned are:
 - (i) The mailbox is assigned as a limited Common Element to the Unit it serves;
 - (ii) The doorsteps or stoops and landings and stairways leading as access to a Unit are assigned as a limited Common Elements to that Unit;

- (iii) The portion of the Common Elements on which there is located any portion of the plumbing, electrical, air conditioning or heating system exclusively serving a particular Unit or Units is assigned as a limited Common Element to the Unit or Units so served;
- (iv) Landings and stairways serving more than one and fewer than all the Units are assigned as limited Common Elements to the Units served jointly.

(b) The Association's Board of Directors, without need for a membership vote, is hereby authorized to create, to assign, and to reassign Limited Common Elements, provided that any such assignment or reassignment shall be made in accordance with the provisions of Article XII, the Articles of Incorporation and the Bylaws.

2.9 Common Elements. The Common Elements and facilities include all parts of the Property not located within the boundaries of a Unit.

ARTICLE III

Permitted Uses and Restrictions

3.1 General Use.

(a) In accordance with the Plat, Units 1 through 14, inclusive, of McClintock Professional Plaza Condominiums, shall be commercial units and shall be utilized exclusively for commercial, medical and professional office building uses and such other similar uses as the Board shall permit in its sole discretion.

(b) Unit Owners shall comply with and be subject to the terms and conditions as set forth in the Articles, Bylaws and rules and regulations of the Association.

(c) Without limiting the foregoing, each Unit Owner shall maintain and keep Unit Owner's Unit at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable business activities of other Unit Owners.

(d) The Unit Owner shall not permit or suffer anything to be done or kept about or within any Unit which will obstruct or interfere with the rights of other Unit Owners or tenants, or annoy them by unreasonable noises or otherwise, nor will Unit Owner commit or permit any nuisance about or within any Unit or commit or suffer any illegal act to be committed therein. The Unit Owner shall comply with all of the requirements of the health authorities and of all other governmental authorities with respect to the Property.

(e) The Unit Owner shall not, and shall not direct, suffer, or permit any of its agents, contractors, employees, licensees, or invitees to at any time handle, use, manufacture, store or dispose of, in or about a Unit, or the Property, any (collectively "Hazardous Materials")

flammables, explosives, radioactive materials, hazardous waste or materials, toxic waste or materials, or other similar substances, petroleum products or derivatives or any substance subject to regulation by or under any federal, state and local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or waste, presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any such laws or ordinances (collectively "Environmental Laws"), nor shall any Unit Owner suffer or permit any Hazardous Materials to be used in any manner not fully in compliance with all Environmental Laws in the Unit or the Property and appurtenant land or allow the Unit to become contaminated with any Hazardous Materials. Notwithstanding the foregoing, and subject to the Association's prior consent, the Unit Owners may handle, store, use, or dispose of any products containing small quantities of Hazardous Materials (such as aerosol cans containing insecticides, toner for copiers, paint, paint removers and the like) to the extent customary and necessary for the use of the premises for general office purposes; provided that the Unit Owner shall always handle, store, use and dispose of any such Hazardous Materials in a safe and lawful manner and never allow such Hazardous Materials to contaminate the Unit, Property, and appurtenant land or the environment. In the event Hazardous Materials are discovered upon, in, or under the Unit, in the applicable government agency or entity having jurisdiction over the Unit, requires the removal of such Hazardous Materials, the Unit Owner shall be responsible for removing those Hazardous Materials arising out of or relating to the use or occupancy of the Unit by the Unit Owner or its agents, affiliates, customers, employees, business associates or assigns. Notwithstanding the foregoing, the Unit Owner shall not take any remedial action in or about the Unit or the Property, nor enter into any settlement agreement, consent decree, or other compromise with respect to any claims relating to any Hazardous Materials in any way connected with the Unit or the Property without first notifying the association of the Unit Owners' intention to do so and affording the Association an opportunity to appear, intervene, or otherwise appropriately assert and protect the Association's interest with respect thereto. The Unit Owner shall notify the Association in writing of:

- (i) any spill, release, discharge or disposal of any Hazardous Materials in on or under the Unit, Property, or any portion thereof;
- (ii) any enforcement, clean-up, removal or other governmental or regulatory action instituted, contemplated or threatened pursuant to any Environmental Law;
- (iii) any claim made or threatened by any person against the Unit owner, the Unit, or the Property, relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from or claimed to result from any Hazardous Materials;
- (iv) any reports made to any environmental agency arising out of or in connection with any Hazardous Materials in, on, or removed from the Unit or the Property, including any complaints, notices, warnings, reports, or asserted violations in connection therewith. The Unit Owner shall also supply the Association as promptly as possible, and in any event, within five (5) days after the Unit Owner first receives or sends the same, copies of all claims, reports, complaints, notices, warnings, or asserted violations relating in any way to the Unit, the Property, or the Unit Owner's use thereof. The Unit Owner shall protect, defend, indemnify, and hold the Association, its officers, directors, and the Declarant harmless from and against any and all loss, claim, liability or cost, including reasonable attorneys' fees, incurred by

reason of any actual or asserted failure by the Unit Owner to fully comply with all applicable Environmental Laws, or the presence, handling, use, or disposition in or from the Unit of any Hazardous Materials (even though permissible under all applicable Environmental Laws or the provisions of this declaration), or by reason of any actual or asserted failure of the Unit Owner to keep, observe, or perform any of the provisions of this section.

3.2 Restrictions on Uses. This Declaration restricts the use of the Property and the Units to non-residential uses only. The Property shall be subject to the restriction on uses as determined by the City of Chandler Zoning Ordinance applicable to the Property.

3.3 Subdividing. There shall be no further subdividing of any Unit but any two (2) or more Units may be combined. Nothing herein contained shall prevent the dedication or conveyance of portions of the Units for public utility purposes in which event the remaining portion of such Unit shall, for the purpose of this provision, be treated as a whole Unit.

3.4 Construction Approval. No exterior improvements or interior improvements visible from the exterior shall be constructed, erected, placed, altered, maintained or permitted on any Unit, without the approval of the Board. Prior to commencing such improvement, each Unit Owner shall submit to the Board for approval, plans and specifications with respect thereto, in manner and form satisfactory to the Board, showing the proposed improvements, site layout and all exterior elevations, materials and colors, signs, window treatments, landscaping, painting, grading, easements and utilities, proposed building use and number of employees, and such other information as may be requested by the Board. Such plans and specifications shall be submitted in writing over the signature of the Unit Owner of that Unit or the Unit Owner's authorized agent. There shall be no structural alteration, construction or removal of any building, fence or other structure on any Unit without the approval of the Board.

Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Declarant to maintain during the period of construction and sale of improvements on the Property, upon such portion of the premises as such Declarant may choose, such facilities as in the sole opinion of said Declarant may be reasonably required, convenient or incidental to the construction and sale thereof, including, but without limitation, a business office, storage area, construction yard and signs.

3.5 General Upkeep of Units by Unit Owners. Each Unit Owner shall have the right to the exclusive use and possession of, and shall be responsible for the care of, any space between his Unit's boundary and the interior surface of any window or door on a perimeter wall of the Unit, or any other similar area which would normally be subject to the exclusive use of a Unit Owner. All Units, and improvements therein, shall be maintained in a clean, neat, orderly fashion and repair and each Unit Owner shall be responsible for the replacement of windows and exterior doors on or affixed to each Unit. No excessive emission of noise, fumes, odors, glare, vibration, gas, radiation, liquid or fluid waste, smoke or dust shall be permitted on or from any Unit. All improvements shall be maintained on or from any Unit. All improvements shall be maintained in a good state of repair. No Unit Owner shall do any act or work that will impair the structural soundness or integrity of any

building or impair any easement. All utilities, fixtures and equipment installed within a Unit shall be maintained and kept in constant repair.

If any Unit Owner should fail after ten (10) days written notice from the Association to clean or maintain Unit Owner's Unit as required herein, the Association shall have the right to enter upon such Unit and may cause the same to be cleaned or maintained in a reasonable manner as required herein and charge the actual cost thereof to the Unit Owner of such Unit and said charges shall be a lien against such Unit Owner's Unit.

3.6 Trash Containers and Collection. The Unit Owners of all Units shall place and keep all garbage or trash in designated receptacles. No other waste or rubbish storage facilities shall be installed, constructed or utilized without prior consent of the Board.

3.7 Burning and Incinerators. No open fires or burning shall be permitted on any Unit at any time and no incinerators or like equipment shall be placed, allowed or maintained upon any Unit.

3.8 Tanks. No elevated or buried tanks of any kind shall be erected, placed or permitted on any Unit.

3.9 Signs. No Unit Owner shall install or maintain any sign or billboard on or in any Unit or improvement thereon which is visible from the Common Element, except upon the receipt of written approval of the Architectural Control Committee specified in Article VIII hereinafter. No for sale or for rent signs shall be placed in the Common Element or on any Unit or structure except for standard pre-designed signs approved by the Architectural Control Committee.

3.10 Animals. No Unit Owner shall keep any animal, including guard dogs, on any Unit except as may be specifically permitted by the Board. Any animal permitted by the Board to be kept on the premises of any Unit shall be cared for in a clean, neat, orderly manner and not allowed to wander or fly about. All animal waste shall be properly removed and disposed of in a sanitary fashion. No Unit shall be used as a veterinary clinic.

3.11 Construction Permitted. All structures erected within the Property must be of new construction, and no buildings or structures may be moved from any other location, other than the point of distribution or manufacture, onto any Unit. No temporary structure or building, including, but without limitation, trailers and mobile homes, shall be used or placed upon any Unit except as may be permitted expressly by the Board.

3.12 Antennas and Satellite Disks. Without prior written approval and the authorization of the Architectural Control Committee, no exterior radio, television or other antennas of any sort, and no satellite dish or microwave or communication dish of any sort shall be placed, allowed or maintained upon any portion of the Property or upon any structure situated upon said Property. This restriction shall not apply to eighteen (18) inch or less satellite dishes used solely for the reception of television programs but the placement of said satellite dishes shall be at the sole discretion of the Board.

3.13 Parking.

(a) Each Unit Owner shall be entitled to exclusive use of those covered parking spaces allocated to the Unit Owner by the Association at the time purchased by the Unit Owner. The rights of a Unit Owner to the exclusive use of a designated covered parking space shall be and is hereby declared to be an appurtenant to ownership of the Unit. The right of a Unit Owner to the exclusive use of a designated parking space shall not be transferable separately from the ownership of the entire Unit. The Board shall have the authority to manage the unassigned parking spaces for the benefit of the Association and may, in its sole discretion, designate all or part of such unassigned spaces to guest parking or lease all or part of such unassigned spaces to owners. The use of all parking spaces shall be subject to such rules and regulations as may be imposed by the Board. Except as otherwise provided in Articles IV and V, the Board shall have the full authority to operate, regulate, restrict the use of, manage and use for and on behalf of all owners any parking spaces situated in the Common Elements. The Association may delegate to any or all Unit Owners of any or all Units the right and obligation to police unauthorized users of covered parking spaces exclusively assigned to that Unit Owner or Unit Owners, at the sole discretion of the Association.

(b) No motor vehicle which is under repair or not in operating condition shall be placed or permitted to remain on the Property or on any portion of any Unit. No boat, mobile home, trailer, RV or motor vehicle larger than a 3/4 ton pickup may be parked on any Unit or Common Element overnight.

3.14 Drainage. The Declarant has established appropriate grades as required by the proper governmental authorities within the Property and said final grades shall not be disturbed in any manner which may adversely affect any other property whether within the Property or elsewhere; nor shall any Unit Owner divert or cause diversion of the surface water from the street adjacent to Unit Owner's Property onto any other property. All surface water shall be left free to its natural flow unless lawfully diverted to a retention basin or drainage ditch. The provisions of this paragraph shall be subordinate to the City of Chandler subdivision regulations governing such drainage.

3.15 Landscaping.

(a) The Common Elements shall be landscaped in accordance with the Development Plan submitted to the City of Chandler, as modified by Declarant. The Association may require that the landscaping in the Common Elements be upgraded from time to time in order to maintain the quality and attractiveness of the overall landscaping of the Property.

(b) The Association shall be responsible for the maintenance of all landscaping and paving in the Common Elements and may contract to have such work performed by an independent maintenance contractor. One-fourteenth (1/14) of all costs of such maintenance shall be assessed against each Unit as shown on Exhibit A, and the failure by an Unit Owner to pay Unit Owner's share of such assessment shall constitute a lien against Unit Owner's Unit enforceable pursuant to Article V and IX hereof.

3.16 Utility Connections. All utility connections, including all electrical, telephone and cable connections and installations of wires to Buildings, shall be made underground from the nearest available power source. All such installations shall be subject to prior written approval of the Board.

3.17 Lighting. It is the intent of the Declarant that all exterior lighting on the Property be established and maintained in a uniform and attractive manner. The cost of installing and maintaining (including electrical service) lighting on the exterior of structures near all exterior doors shall be paid for by the Unit Owner of the Unit upon which said lighting is affixed. The location and type of lighting to be installed on the exterior of all structures erected on any Unit shall be prescribed by the Association. All exterior lighting shall be on and functioning during hours prescribed by the Association. The lighting of all Common Elements, including parking lot areas, shall be established, installed and maintained by the Association and one-fourteenth (1/14) of the cost of all lighting in the Common Elements shall be assessed against each Unit and the failure by an Unit Owner to pay such assessment shall constitute a lien against such Unit Owner's Unit enforceable pursuant to the provisions of Article V and IX hereof.

3.18 Pick-up and Delivery Receptacles: No receptacles for the pick-up or delivery of items, including but not limited to, specimens, x-rays, packages or Units of any type or kind, shall be visible from the exterior of a structure constructed on a Unit unless such receptacle has been approved by the Association in writing.

ARTICLE IV

Common Elements

4.1 Right of Enjoyment. Every Unit Owner shall have a right and easement of enjoyment in and to the Common Elements, and such easement shall be appurtenant to and shall pass with the title to each and every Unit. It is expressly acknowledged and agreed by all parties concerned that this Article is for the mutual benefit of all Unit Owners of Units within McClintock Professional Plaza Condominiums and is necessary for the protection of said Unit Owners. It is understood and agreed that the rights of use and enjoyment of the Common Elements may be exercised by any person legally in possession of a Unit in a manner not in violation of the provisions hereof, but nothing herein shall be deemed to alter or amend the definition of "Unit Owner" under Article I, Section 1.26 hereof, or to affect the provisions of Article VI hereof with respect to membership or to affect the provisions of Article VII hereof with respect to voting rights. The Association may restrict and regulate the use of the Common Elements for parties, gatherings, employee breaks and smoking and may designate an area or areas of the Common Element as the sole and exclusive area where employees, contractors, agents, invitees and licensees of Unit Owners may take breaks and smoke. Such rights and easements of enjoyment shall be subject to reasonable rules and regulations as from time to time are promulgated by the Association.

4.2 Assignment of Enjoyment. Any Unit Owner may delegate the right of enjoyment to the Common Elements and facilities to Unit Owner's tenants, or contract purchasers who are in

possession of Unit Owner's Unit, but to no others; provided, however, such Unit Owner is not relieved of any obligation or liability pursuant to this Declaration.

4.3 Transfer or Dedication. The Declarant reserves unto himself and unto the Association the right to dedicate or transfer all or any part of the Common Elements to any public agency, authority or utility for such purposes and subject to such conditions as may be deemed necessary or appropriate.

ARTICLE V

McClintock Professional Plaza Condominiums

5.1 The Association. The McClintock Professional Plaza Condominiums Association shall be an Arizona corporation charged with the duties and vested with the powers prescribed by law and set forth in its Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.2 Board of Directors and Officers. The affairs of the Association shall be conducted by a board of three (3) directors who may be officers of the corporation and who shall be elected by a majority vote of the officers.

5.3 Terms of Office. The term of each director of the Association shall be for a period of two (2) years or until the appointment of the director's successor.

5.4 Powers and Duties. The Association shall have such rights, duties and powers as set forth in the Articles and Bylaws, as they may be amended from time to time. Such rights, duties and powers shall include, but not be limited to, the following:

- (a) Serve as an Architectural Control Committee as permitted herein;
- (b) Hold title to the Common Elements and such other areas as may be acquired by it and set aside and maintained for the use, enjoyment or convenience of the Unit Owners within McClintock Professional Plaza Condominiums.
- (c) Maintain all landscaping, parking, retention and paved areas within the McClintock Professional Plaza Condominiums in a state of good repair, including watering, fertilizing and cutting grass, pruning and trimming trees and shrubs, striping and sweeping all parking spaces and repairing asphalt areas.
- (d) Perform any and all such other acts as are specified in this Declaration, including, but not limited to the hiring of professionals to assist it in carrying out its duties.

5.5 Powers of Enforcement. The Board or its authorized agents may enter any Unit in which a violation of these restrictions exists and may correct such violation at the expense of the Unit Owner of such Unit, after ten (10) days written notice of such violation. Such expenses, and such fines as may be imposed pursuant to the Bylaws or the rules and regulations of the Association shall be added to and constitute a lien upon such Unit in accordance with the provisions of Article IX, hereof.

(a) The Association may modify or waive the provisions of this Declaration or otherwise restrict or regulate the use and occupancy of the Property and the Units by reasonable rules and regulations of general application adopted by the Board from time to time, copies of which shall be distributed to all Unit Owners in the manner provided herein for giving of notice prior to the effective date of such rules and regulations. All remedies provided in this Declaration are cumulative and all other rights and remedies available at law or in equity shall be available in the event of any breach by any Unit Owner of any of the provisions of this Declaration, including but not limited to, enforcement or foreclosure of a lien which is attached pursuant to Articles V and IX, hereof, and the appointment of a receiver for a Unit or for damages or injunction, or specific performance or for a judgment for payment of money and collection thereof, or the right to take possession of the Unit and to rent the Unit and apply the rents received to payment of the unpaid Assessments and interest thereon, with the balance thereof being paid to the Unit Owner. All expenses of the Association in connection with any action or proceeding described or permitted by this Declaration, including reasonable attorney's fees and other fees, costs and expenses and all damages, liquidated or otherwise, together with interest thereon at the rate of eighteen percent (18%) per annum shall be charged to and assessed against the defaulting Unit Owner and shall be a lien upon the Unit as provided in Article IX, hereof.

(b) If any Unit Owner (either by the Unit Owner's conduct or by the conduct of any tenant or agent or employee of tenant of Unit Owner) shall violate any of the provisions of this Declaration, or the Articles, Bylaws or Rules of the Association, as then in effect, and such violation shall continue for ten (10) days after notice in writing from the Board or shall occur repeatedly during any 10-day period after written notice or request to cure such violation from the Board, then the Board, Declarant or either of their assigns, or any affected or aggrieved Unit Owner, shall have the power to file an action against the defaulting Unit Owner for a judgment or injunction against the Unit Owner or tenant requiring the defaulting Unit Owner or tenant to comply with the provisions of this Declaration, or the Articles, Bylaws or Rules of the Association, and granting other appropriate relief, including money damages. Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any right of re-entry by reason thereof, shall not defeat or adversely affect the lien of any First Lien Holder (as later defined in this Declaration) upon any Unit; but, except as herein specifically provided, each and all of said covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Unit Owner whose title therein is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

5.6 Rules. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations to be

known as the McClintock Professional Plaza Condominiums' Rules (the "Rules"). The Rules may restrict and govern the use of the Common Elements by such Unit Owner, or by any invitee, licensee or lessee of such Unit Owner; provided, that the Rules may not discriminate among Unit Owners and shall not be inconsistent with this Declaration, the Bylaws or Articles. A copy of the Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Unit Owner and may be recorded. Upon such recordation, said Rules shall have the same force and effect as if they were set forth in and were a part of the Declaration.

5.7 Accounting. The Board, at all times, shall keep, or cause to be kept, true and correct records of account and shall have available for the inspection of all voting Unit Owners and First Lien Holders, at reasonable times, such books which shall specify in reasonable detail all expenses incurred and funds accumulated from assessments or otherwise.

5.8 Personal Liability. No member of the Board or any Committee of the Association, or any officer of the Association shall be personally liable to any Unit Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any acts, omissions, error or negligence of the Association, the Board or any other representative or employee of the Association, or any committee or any officer of the Association, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

5.9 Indemnification. Every director and every officer of the Association shall be indemnified by the Association, as the case may be, against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which Unit Owner may be a party, or in which Unit Owner may become involved, by reason of Unit Owner being or having been a director or officer of the Association, or any settlement thereof, whether or not Unit Owner is a director or officer at the time such expenses are incurred, provided that the Board shall determine, in good faith, that such officer or director did not act, fail to act, or refuse to act, willfully or with gross negligence or fraudulent or criminal intent in the performance of Unit Owner's duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such directors or officers may be entitled.

5.10 Managing Agent. Any powers, duties and rights of the Association or the Board, as provided by law and herein, may be delegated to an agent in accordance with a written agreement. Any such agreement shall provide for termination by either party with or without cause upon 90 days' written notice; provided, however, that the Association may terminate the agreement for cause upon 30 days written notice.

ARTICLE VI

Membership

6.1 Membership. A Unit Owner shall, automatically, upon becoming the owner of a Unit, be a member of the Association, and shall remain a member of the Association until such time as Unit Owner's ownership ceases for any reason, at which time Unit Owner's membership in said

Association shall automatically cease. Ownership of a Unit shall be the sole qualification and criteria for membership.

6.2 Transfer of Membership. A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of such Unit and then only to such purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the Unit Owner of any Unit should fail or refuse to transfer the membership registered in Unit Owner's name to the purchaser of such Unit, the Association shall have the right to record the transfer upon the books of the Association and issue a new membership for the purchaser and thereupon the old membership outstanding in the name of the seller shall be null and void as though the same had been surrendered.

6.3 Multiple Unit Owners. When more than one person holds an interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as they, among themselves, determine but in no event shall more than one vote be cast as a whole and fractional votes shall not be allowed. In the event that Joint Unit Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Unit Owner, or Unit Owners, cast a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes that Unit Owner or they are acting with the authority and consent of all other Unit Owners of the same Unit. In the event more than one vote is cast for a particular Unit, none of said votes shall be counted, and said votes shall be deemed void.

ARTICLE VII

Voting Rights

7.1 Classes of Membership; Voting Rights of Classes. Unit Owner shall be entitled to one vote of each Unit owned. When more than one person hold an interest in any Unit, all such persons shall be members. The voting for such Unit shall be exercised as they determine among themselves, but in no event shall the vote be split or more than one vote be cast with respect to such Unit. If such persons are unable to agree how their single vote is to be cast, their vote shall not be counted.

7.2 Suspension of Voting Rights. In the event any Unit Owner shall be in arrears in the payment of any amounts due under any of the provisions of this Declaration for a period of fifteen (15) days, or shall be in default in the performance of any of the terms of this Declaration for a period of fifteen (15) days, said Unit Owner's right to vote as a member of the Association shall be suspended and shall remain suspended until all payments are brought current and all defaults remedied.

ARTICLE VIII**Architectural Control**

8.1 **Architectural Control Committee.** The Board of Directors of the Association shall serve as an Architectural Control Committee and shall have the authority and responsibility to review the plans and specifications of all improvements, signs, exterior lighting and window treatments and other structures to be constructed in the subdivision pursuant to the terms hereof.

The Board shall have the right to refuse to approve any plans or specifications or grading plans, which are not suitable or desirable, in its sole opinion, for aesthetic or other reasons, and in so passing upon such plans, specifications and grading plans, and without any limitations of the foregoing, it shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property. The Board shall have the right to refuse to approve any plans or specifications or grading plans which they deem to not be complete. For the purposes of this Paragraph, complete shall be defined as those plans and specifications upon which the City of Chandler will issue building permits. In the event the Board has approved plans or specifications or grading plans and material changes are made thereto, said plans or specifications or grading plans, as the case may be, shall be resubmitted to the Architectural Control Committee for review. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme, shall be subject to the prior approval of the Board. No changes or deviations in or from such plans and specifications, once approved, shall be made without the prior written approval of the Board. The Board must indicate the reason it has disapproved of any plan or specification. All decisions of the Board shall be final and no Unit Owner or other party shall have recourse against the Board for its refusal to approve any such plans and specifications or grading plans, including, but not limited to, exterior lighting, window treatments and landscaping.

8.2 **Time for Approval.** Two (2) copies of the complete plans and specifications of any proposed improvement must be submitted to the Board. At least one (1) copy of said plans and specifications shall be retained by the Board.

In the event that a written request for such approval is not acted upon within thirty (30) days of the receipt by the Board of said request, then such approval will not be required; provided, however, that no structure may be constructed pursuant to this Paragraph which conflicts with any specifically delineated restriction contained herein.

8.3 **Waiver.** The approval by the Board of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Board, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

8.4 Meetings and Compensations. The Board shall meet at least once per year, but may also meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of the regular members at a meeting, or otherwise, shall constitute the act of the Board. Members of the Board shall not be entitled to compensation for their services.

8.5 Board Rules. The Board may, from time to time, and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations to be known as the Architectural Control Rules. The rules may set forth the standards and procedures for Board review and guidelines for architectural design, placement of buildings, landscaping, color scheme, exterior finishes and materials and similar features which are recommended for use within McClintock Professional Plaza Condominiums.

8.6 Liability. Neither the Board nor any member thereof shall be liable to any Unit Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of:

(a) Approval or disapproval of any plans, drawings or specifications, whether or not defective;

(b) The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;

(c) The development of any property within McClintock Professional Plaza Condominiums; or

(d) The execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by him.

Without any way limiting the generality of any of the foregoing provisions of this section, the Board, or any member thereof, may, but is not required to, consult with, or hear the views of, any Unit Owner with respect to any plans, drawings, specifications or any other proposal submitted to the Board for review.

ARTICLE IX

Common Expense Assessments

9.1 Obligation.

(a) The Declarant, for each Unit owned within the Property, hereby covenants and each Unit Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association said Unit's share of Common Expense liability which shall be one-fourteenth (1/14) of all Common Expense Assessments as shall be fixed, established and collected from time to time as hereinafter provided. All Common Expense Assessments, together with such interest thereon and costs of

collection thereof, as hereinafter provided, shall be an assessment on the Unit and shall be a continuing lien upon it. Each such Common Expense Assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person or entity who was the Unit Owner of such Unit at the time when the assessment fell due, but such personal obligation and liability of the Unit Owner shall not be deemed to limit or discharge the charge on the Unit and continuing lien upon the Unit.

(b) Until such time as the Association makes a Common Expense Assessment, the Declarant shall advance all Common Expenses, subject to reimbursement from each Unit Owner at the time of a Common Expense Assessment. Any Common Expense or portion of a Common Expense benefitting fewer than all of the Units shall be assessed exclusively against the Units benefitted. Assessments to pay a judgment against the Association may be made only against the Units in the Condominium at the time the judgment was entered in proportion to their Common Expense Liabilities. If any Common Expense is caused by the misconduct of any Unit Owner, the Association may assess that expense exclusively against the Unit Owner. Common Expense Assessments for any Unit on which construction has not been substantially completed may be an amount which is not less than twenty-five percent (25%) of the Common Expense Assessment for Units which have been substantially completed.

9.2 Penalty Assessments. The Board may impose reasonable fines as provided in rules and regulations adopted by the Board for the violation thereof by any Unit Owner or tenant, or the employees, guests or invitees thereof. Each Unit Owner covenants and agrees that any fine so imposed with respect to the use or occupancy of a Unit owned by him, whether the violation for which the fine is imposed was committed by that Unit Owner or a tenant of a building on a Unit, or an employee, guest or invitee thereof, shall constitute an assessment hereunder and, if not promptly paid as herein provided, shall constitute a lien thereon.

9.3 Uses. The assessments levied by the Association for Common Expenses shall be used exclusively for the purpose provided herein, including but not limited to, painting and staining the exterior of all improvements constructed on the Units, the maintenance of structural systems, roofs, water and sewer systems, landscaping, parking, lighting, retention and paved areas within McClintock Professional Plaza Condominiums in a state of good repair and for other such purposes as shall enhance McClintock Professional Plaza Condominiums and benefit the Unit Owners thereof.

9.4 Procedure. Declarant and the Unit Owner of each such Unit, for themselves, their heirs, successors and assigns, further covenant that each Unit shall be subject to an assessment in an amount to be determined by the Association, in the following manner:

(a) Such Unit's share of the actual cost to the Association of all maintenance, repair and replacement of all landscaping, lighting, parking facilities, painting and paved areas, including the costs of mowing grass, maintaining the sprinkler systems and other similar charges required by this Declaration of Covenants, Conditions and Restrictions.

(b) Such Unit's share of any additional sums the Association shall determine to be necessary to meet the primary purpose of the Association, including but not limited to, such sums as the Association may determine to be fair and prudent for the establishment and maintenance of liability insurance on the Property and for the establishment and maintenance of reasonable reserves.

9.5 Annual Assessment. The Common Expenses shall be established annually by the Board based on a budget adopted at least annually. The Board shall meet in December of each year on a date and at a time acceptable to the Board in order to decide and determine the annual assessment for the following year.

9.6 Special Assessment. In addition to the annual assessment, the Association may provide for such improvement, alteration, demolition, removal, construction, reconstruction, unexpected repair or replacement of Common Elements as the Board may determine to be in the best interests of the Association and the Unit Owners and may levy in any calendar year a special assessment for the purpose of defraying, in whole or in part, the cost of said repair, maintenance, alteration or improvement.

9.7 Notice. At the time of the first conveyance of each Unit and from time to time thereafter the Association or its designated representative shall notify the Unit Owner or Unit Owners of each Unit as to the amount of the estimated annual assessment and shall each month collect for each Unit one-twelfth (1/12th) of said Unit's proportional share of said assessment.

9.8 Amount of Assessments. Until January 1st of the year immediately following the conveyance of the first Unit to an Unit Owner, the maximum annual assessment shall be One Hundred Sixty-nine Dollars (\$169.00) per month per Unit. From and after the end of said first fiscal year, the maximum annual assessment may be increased by such amount as may be determined by the Board, effective the first day following the end of each fiscal year.

9.9 Equal Rate of Assessment. All assessments must be fixed at an equal rate based on an amount equal to one-fourteenth (1/14) of such assessment for each Unit shown on Exhibit A. Any and all of these assessments may be collected on a monthly basis and shall be due on the 1st of the month following the date of the assessment.

9.10 Payment of Assessments. Each Unit Owner, for himself, Unit Owner's heirs, successors, grantees and assigns, covenants that with respect to charges so determined during the period that the Unit Owner is an Unit Owner, and will remit these charges directly to the Association or to such other party or parties as directed by the Association. The Association may perfect any such lien in the manner deemed appropriate.

(a) Any assessments which are not paid when due shall be delinquent. Each Unit Owner further agrees that these assessments, if not paid within fifteen (15) days after the due date, shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, shall become a lien upon said Unit Owner's Unit and shall continue to be a lien until fully paid.

(b) Each such Unit Owner expressly vests in the Association or its agent the right and power to bring all actions against such Unit Owner personally for the enforcement of such charges as a debt and to enforce a foreclosure of a lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage of real property and such Unit Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Unit Owners. The Association acting on behalf of the Unit Owners shall have the power to bid on at a trustee's sale or foreclosure sale and to acquire and hold, lease, mortgage and convey the same. In the event any person, corporation or association authorized to enforce the provisions of this Declaration employs an attorney or attorneys to enforce said lien or the collection of any amounts due pursuant to this Declaration, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, the Unit Owner, Unit Owners and parties against whom the action is brought shall pay all attorney's fees and costs thereby incurred by said enforcing party in the event said enforcing party prevails in any such action.

9.11 Curing of Default. Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Unit Owner of a fee to be determined by the Board to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred in connection therewith or with the delinquent assessment.

9.12 Cumulative Remedies. The assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution of all other rights and remedies which the Association and its assigns may have hereunder and by law, including without limitation a suit to recover a money judgment for unpaid assessments.

9.13 Exemptions: No Unit Owner may exempt himself from liability for Unit Owner's contribution for the Common Expenses by waiver of the use or enjoyment, or by the abandonment of, Unit Owner's Unit.

ARTICLE X

Easements

In addition to any and all other easements created in this Declaration, and not in limitation thereof, the following easements are created hereby:

10.1 Utility Easement. There is hereby created a blanket easement, across, over and under the Property and Units, excepting any improvements constructed thereon, for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, including but not limited to, water, sewers, gas, telephone, electricity, television cable or communication lines and systems. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on the Property or Units and to

affix and maintain wires, circuits and conduits or, in and under roofs and exterior walls of said buildings. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities or service lines may be installed or relocated on said Property except as are now existing or hereafter approved by the Association. This easement shall in no way affect any other recorded easement on said Property.

10.2 Encroachments. Each Unit and the Common Elements shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the original builder. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist; provided, however, that said encroachment shall not exceed two (2) feet in any one direction if encroachment is by foundation, footings, wall or other such structural element, nor four (4) feet in any one direction if encroachment is by overhangs or other such elevated structural element. Any overhang or other such elevated structural element which encroaches on another Unit shall not be supported by any post, column, wall or other supporting member which itself encroaches on another Unit in excess of two (2) feet in any one direction. In the event the structure is partially or totally destroyed, and then rebuilt, the Unit Owners of the buildings agree that minor encroachments or parts of the adjacent Units or Common Elements due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

ARTICLE XI

Rights and Duties of First Lien Holder

11.1 Protection Afforded First Lien Holder. Notwithstanding and prevailing over any other provisions of this Declaration or any rules, regulations or management agreements, the following provisions shall apply to and benefit each holder of a first lien upon a Unit (called the "First Lien Holder"):

(a) The First Lien Holder shall not in any case or manner be personally liable for the payment of any assessment or charge, nor for the observance or performance of any covenants, restrictions, regulations, rules or management agreements, if any, except for those matters which are enforceable by injunctive or other equitable actions, not requiring the payment of money, except as hereinafter provided.

(b) During the pendency of any proceeding to foreclose the first mortgage, including any period of redemption, the First Lien Holder (or any receiver appointed in such action) may, but need not, exercise any or all of the rights and privileges of the Unit Owner of the mortgaged Unit, including, but not limited to, the obligation to pay for any charges accruing thereafter, in the same manner as any Unit Owner.

(c) Except upon written approval of all the First Lien Holders on all the Units within McClintock Professional Plaza Condominiums, the Unit Owners shall not by act or omission revoke or abandon this Declaration.

(d) In the event an Unit Owner defaults in the performance of any substantial obligation imposed by these covenants, conditions and restrictions and fails to cure said default within the time period allowed herein, the Association may give written notice of such default to the First Lien Holder of the Unit or Units then owned by the said Unit Owner.

ARTICLE XII

Amendment of Declaration

12.1 Except as provided herein in the case of an amendment to this Declaration by the Association to assign or reassign Limited Common Elements, or by the Declarant to relinquish its right to appoint and remove Directors of the Association, or by Declarant to expand the Condominium as provided herein, or as a result of condemnation or substantial damage and destruction as provided herein and in the Act, this Declaration may be amended only as follows:

(a) All amendments to this Declaration, other than as specified above, may be made only by the affirmative vote, written consent, or any combination thereof, of the members of the Association holding at least seventy-five (75%) per cent of the total votes thereof.

(b) So long as the Declarant has at least one (1) Unit held primarily for sale or an unexpired option to expand the Condominium, no amendment to the Declaration or Bylaws shall be effective until approved in writing by the Declarant. So long as Declarant has the right to maintain sales activity within the Condominium, no amendment limiting or restricting that right shall be effective until approved in writing by Declarant.

(c) Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. Any member may evidence consent to any amendment in writing without the necessity of a meeting or to supplement votes received at a meeting.

(d) No amendment shall be effective until it is certified by the officers of the Association and a copy is filed in the office of the Maricopa County Recorder. Any amendment so certified (and signed by the Declarant, if required) and recorded shall be conclusively presumed to have been duly adopted.

ARTICLE XIII

Sales and Leases

13.1 Sales and Leases of Units. In order to assure a community of congenial owners and thus protect the value of the Units, the sale or leasing of a Unit by any Unit Owner (other than as herein provided for certain mortgagees and Declarant) shall be subject to the following provisions so long as the property shall be owned in accordance with the terms and conditions of this Declaration and the Act:

(a) Any Unit Owner intending to sell or lease his or her Unit shall give notice in writing to the Board of Directors of such intention, stating the name and address of the intended purchaser or lessee. The Board of Directors shall have authority to make and to enforce reasonable rules and regulations in order to enforce this provision, including the right to impose fines constituting a lien upon the Unit sold or leased pursuant to Sections 1255 and 1256 of the Act.

(b) No transient tenants may be accommodated therein. All leases and lessees are subject to the provisions of the Declaration and Bylaws. All rentals must be for a term no less than one (1) year. The Unit Owner must make available to the tenant copies of the Condominium Instruments including the Declaration, Bylaws, and rules and regulations.

Any lease of a Unit in the Condominium shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Unit Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then, such language shall be incorporated into a lease by existence of this covenant on the Unit. Any lessee, by occupancy in a Unit, agrees to the applicability of this covenant and incorporation of this covenant and the following language into the lease:

(i) Lessee acknowledges that promises made to Lessor are made for the benefit of the Association for the purpose of discharging Lessor's duties to the Association through Lessee's performance. In order to enforce the provisions of this Agreement made for the Association's benefit, the Association may bring an action against Lessee to recover sums due for damages or injunctive relief or may impose any other sanction authorized by the Declaration and Bylaws, as they may be amended from time to time, or available at law or equity, including, but not limited to, all remedies available to a landlord upon breach or default of a lease agreement by the Lessee. Failure by the Association to enforce any of its rights shall in no event be deemed a waiver of the right to do so thereafter.

(ii) Lessee shall comply strictly with all provisions of the Declaration, Bylaws, and with the administrative rules and regulations adopted pursuant thereto, as any of the foregoing may be lawfully amended from time to time. Lessee shall control the conduct of his or her family and guests in order to assure compliance with the foregoing and shall indemnify and hold Lessor and the Association harmless for any such person's failure to comply. Lessee acknowledges that the violation by Lessee or any occupant or person living with Lessee of any provision of the Declaration, Bylaws, or rules and regulations adopted thereunder shall constitute a default under this lease.

(iii) Upon request by the Association, Lessee shall pay to the Association all unpaid annual assessments and special assessments, as lawfully determined and made payable during and prior to the term of this Agreement and any other period of occupancy by Lessee; provided, however, Lessee need not make such payments to the Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Association's request. All payments made to the

Association shall reduce by the same amount Lessee's obligation to make monthly rental payments to Lessor under the Lease. If Lessee fails to comply with the Association's request to pay assessments, Lessee shall pay to the Association all late or delinquent charges, fines, interest, and costs of collection, including, but not limited to, reasonable attorney's fees actually incurred, to the same extent Lessee would be required to make such payments to the Association if Lessee were the owner of the Premises during the term of this Agreement and any other period of occupancy by Lessee.

(iv) Lessee's rights shall be subject to all rights of the Association and any bona fide mortgage or deed to secure debt which is now or may hereafter be placed upon the Premises by Lessor.

(c) In the event the Association proceeds to evict the Lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be specially assessed against the Unit and the Unit Owner thereof, such being deemed hereby as an expense which benefits the leased Unit and the Unit Owner thereof.

(d) Any Lessee charged with a violation of the Declaration, Bylaws, or rules and regulations is entitled to the same rights to which the Unit Owner is entitled as provided in the Association's Bylaws.

(e) Notwithstanding anything to the contrary herein contained, the provisions of this Article shall not apply to impair the right of any first mortgagee to:

- (i) foreclose or take title to a Unit pursuant to remedies contained in any mortgage;
- (ii) take a deed or assignment in lieu of foreclosure, or
- (iii) sell, lease, or otherwise dispose of a Unit acquired by the mortgagee.

ARTICLE XIV

Declarant Rights

14.1 Declarant Rights. Notwithstanding anything to the contrary contained elsewhere in this Declaration, any other Condominium Instrument, or the Articles of Incorporation of McClintock Professional Plaza Condominiums, in accordance with the Act and this Declaration, the Declarant shall have the following rights:

(a) The Declarant and its duly authorized agents, representatives, and employees shall have, and there hereby is reserved unto the Declarant, its agents, representatives, and employees, an easement over, across, and to the Condominiums for construction of Units or common facilities, provision of warranty services to owners, and for the maintenance of sales offices, signs, and/or

model Units on the Property, so long as Declarant owns any land or Unit subject to this Declaration primarily for the purpose of sale or an unexpired option to expand the Condominiums, (herein called "Declarant's Easement").

(b) The Declarant shall have the right to appoint and remove any member or members of the Board of Directors of the Association and such other special Declarant rights provided in paragraph 1.23. The Declarant's authority so to appoint and remove members of the Board of Directors of the Association shall expire on the first to occur of the following:

(i) the expiration of five (5) years after the date upon which this Declaration is recorded in the Office of the Maricopa County Recorder, or

(ii) if the option to expand property has expired, the date as of which thirteen (13) of the Units shall have been conveyed by the Declarant to Unit Owners other than a person or persons constituting the Declarant; or

(iii) the date on which the Declarant voluntarily relinquishes such right by executing and recording a written declaration of intent which shall become effective as specified in such declaration;

(c) To subject additional property to this Declaration.

ARTICLE XV

Insurance

15.1 Commencing not later than the time of the first conveyance of a Unit to a person other than a Declarant, the Association shall maintain, to the extent reasonably available, both:

(a) Property insurance on the Common Elements insuring against all risks of direct physical loss commonly insured against or, as determined by the Board of Directors against fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than eighty per cent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies.

(b) Liability insurance in an amount determined by the Board of Directors but not less than any amount specified in the declaration, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements.

15.2 To the extent available, the insurance maintained under subsection 15.1, paragraph (a) of this Article, if determined by the Board, includes the Units or any portion of those Units but need not include improvements and betterments installed by Unit owners or the personal property of Unit Owners.

15.3 If the insurance described in subsection 15.1 of this Article is not reasonably available, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Unit Owners. The declaration may require the Association to carry any other insurance, and the Association in any event may carry any other insurance it deems appropriate to protect the Association or the Unit Owners.

15.4 Insurance policies carried pursuant to subsection 15.1 of this Article shall provide the following:

(a) Each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the association.

(b) The insurer waives its right to subrogation under the policy against any Unit Owner or members of his household.

(c) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

(d) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same property covered by the policy, the Association's policy provides primary insurance.

15.5 Any loss covered by the property policy under subsection 15.1, paragraph (a) and subsection 15.2 of this Article shall be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and lienholders as their interest may appear. Subject to the provisions of subsection 15.8 of this Article, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the condominium is terminated.

15.6 An insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for his own benefit.

15.7 An insurer that has issued an insurance policy under this Article shall issue certificates or memoranda of insurance to the Association and, on written request, to any Unit Owner, mortgagee or beneficiary under a deed of trust. The insurer issuing the policy shall not cancel or refuse to renew it until thirty days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Unit Owner and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

15.8 Any portion of the condominium for which insurance is required under this Article which is damaged or destroyed shall be repaired or replaced promptly by the Association unless any of the following apply:

- (a) The condominium is terminated.
- (b) Repair or replacement would be illegal under any state or local health or safety statute or ordinance.
- (c) Eighty per cent of the Unit Owners, including every owner of a Unit or allocated Limited Common Element which will not be rebuilt, vote not to rebuild.

15.9 The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Condominium is not repaired or replaced:

(a) The insurance proceeds attributable to the damaged Common Elements in proportion to their Common Element interests or as otherwise provided in the Declaration shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium.

(b) The insurance proceeds attributable to Units and allocated Limited Common Elements which are not rebuilt shall be distributed in proportion to their Common Element interests or as otherwise provided in the Declaration to the Unit Owners of those Units and the Unit Owners of the Units to which those Limited Common Elements were allocated, or to lienholders as their interests may appear.

(c) The remainder of the proceeds shall be distributed to all the Unit Owners or lienholders as their interests may appear in proportion to the Common Element interests of all the Units.

15.10 If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated on the vote as if the Unit had been condemned under A.R.S. § 33-1206, subsection A, and the Association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocation.

15.11 Notwithstanding the provisions of subsections 15.8, 15.9 and 15.10 of this Article, A.R.S. § 33-1228 governs the distribution of insurance proceeds if the condominium is terminated.

15.12 If all Units are restricted to nonresidential use, the provisions of a subsection or paragraph of this Article do not apply if the Declaration, Articles of Incorporation or amended Bylaws contain provisions inconsistent with such subsection or paragraph.

15.13 This Article does not prohibit the Declaration from requiring additional or greater amounts of insurance coverage or does not prohibit the Board of Directors from acquiring additional or greater amounts of coverage as it reasonably deems appropriate.

ARTICLE XVIGeneral Provisions

16.1 Enforcement. The Association, or any Unit Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereinafter imposed by the provisions of this Declaration. Failure by the Association or by any Unit Owner to enforce any covenant or restriction herein contained shall in no way be deemed a waiver of the right to do so thereafter.

16.2 Interpretation of the Covenants. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefitted or bound by the covenants and provisions hereof.

16.3 Exemption of Declarant from Restrictions. Notwithstanding anything contained in this Declaration to the contrary none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant, its employees, agents and subcontractors, or parties designated by it in connection with the construction, completion, sale or leasing of the Units.

16.4 Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall be in full force and effect.

16.5 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives as being" for computing the period of perpetuities shall be (a) those which would be sued in determining the validity of the challenged interest, plus (b) those of the issue of the Members of the Association who are living at the time the period of perpetuities starts to run on the challenged interest.

16.6 Term. The covenants and restrictions of this Declaration shall run with and bind the land until December 31, 2028, after which they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended at any time prior to December 31, 2028 by an instrument signed by not less than seventy-five percent (75%) of the Unit Owners, and thereafter by an instrument signed by not less than sixty-five percent (65%) of the Unit Owners. Any amendment must be recorded.

16.7 Violations and Nuisances. Every act or omission whereby any provision in this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the release sought is for negative or affirmative action, by Declarant, the Association, or any Unit Owner or Unit Owners of a Unit within McClintock Professional Plaza

Condominiums. However, any other provision to the contrary notwithstanding, only Declarant, the Association or the duly authorized agent of either of them, may enforce by self help any of the provisions of this Declaration.

16.8 Power of Attorney. Whenever the Association is granted rights, privileges or duties in this Declaration, the Board shall have the authority to act for the Association in accordance with the Articles and Bylaws. Further, unless otherwise specifically restricted by the provisions of this Declaration, where the Association is empowered to take any action or do any act, including but not limited to action or acts in connection with the Common Elements or withdrawal of the Property from the horizontal property regime and sale thereof, the Unit Owners and each of them hereby constitute and appoint the Association as their attorney-in-fact for the purposes of taking such action or doing such acts including but not limited to executing, acknowledging and delivering any instruments or documents necessary, appropriate or helpful for such purposes. It is acknowledged that this power of attorney is irrevocable and coupled with an interest and by the acceptance of deed for a Unit or by signing a contract for purchase of a Unit or by entering into a lease with respect to such Unit or by succeeding in any other manner to the ownership of or the possession of any estate or interest in a Unit, each Unit Owner shall be deemed and construed to have ratified and expressly granted the above power of attorney.

16.9 Violation of Law. Any violation of any Federal, state, municipal or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any property within McClintock Professional Plaza Condominiums is hereby declared to be a violation of this Declaration and subject to any and all of the enforcement procedures set forth herein.

16.10 Remedies Cumulative. Each remedy provided by this Declaration is cumulative and not exclusive.

16.11 Delivery of Notices and Documents. Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered twenty-four (24) hours after copy of same has been deposited in the United States mail, postage prepaid, addressed to the last known address of addressee.

16.12 References to the Covenants in Deeds. Deeds to and instruments affecting any Unit or any part of the Property may contain the covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the covenants shall be binding upon the grantee-Unit Owner or other person claiming through any instrument and Unit Owner's heirs, executors, administrators, successors and assigns.

16.13 Declaration. By acceptance of a deed, or by acquiring any ownership interest in any of the real property within this Declaration, each person or entity, for Unit Owner or itself, Unit Owner's heirs, personal representatives, successors, transferees and assigns, binds himself, Unit Owner's heirs, personal representatives, successors, transferees and assigns to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereinafter imposed by this Declaration and any amendments thereof. In addition, each person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and care of the

real property covered thereby and hereby evidences Unit Owner's interest that all of the restrictions, conditions, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Unit Owners, grantees, purchasers, assignees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Unit Owners.

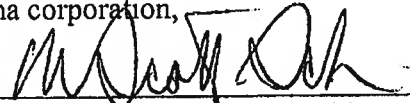
16.14 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

16.15 Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

IN WITNESS WHEREOF, the Declarant has signed this Declaration on this 24th day of January, 2000.

By: 
W. Scott Schirmer

AMNET INVESTMENT COMPANY,
an Arizona corporation,

By: 
W. Scott Schirmer, Its President